

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

CLAUDE ROBINSON

PLAINTIFF

VS.

CIVIL ACTION NO. 3:21-cv-519-KHJ-MTP

**HARBOR FREIGHT TOOLS USA, INC.
D/B/A US GENERAL**

AND JOHN DOES 1-3

DEFENDANTS

NOTICE OF REMOVAL

Defendant, Harbor Freight Tools USA, Inc. (hereinafter referred to as "Defendant"), removes this case to the United States District Court for the Southern District of Mississippi, Northern Division, and, as grounds, states as follows:

1. Defendant has been sued in a civil action filed by Plaintiff in the Circuit Court of Madison County, Mississippi, Cause Number 21-0184. Defendant's Registered Agent for service of process was served on August 5, 2021. A copy of the complete Court Record, including the Complaint filed on July 15, 2021 is attached hereto as **Exhibit A**.
2. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed in the United States District Court for the Southern District of Mississippi, Northern Division, within the time allowed by law for the removal of civil actions.
3. In his Complaint, Plaintiff pleads that he is an adult resident citizen of Hinds County, Mississippi.
4. Defendant is a foreign corporation incorporated pursuant to the laws of the State of Delaware with its principal place of business located at 26541 Agoura Road, Calabasas, CA 91302.
5. Accordingly, this Court has subject matter jurisdiction over of this controversy pursuant to 28 U.S.C. §1332 as there is complete diversity of citizenship between the parties.

6. Additionally, pursuant to 28 U.S.C. §1332, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Plaintiff asserts that he was injured due to the alleged negligence of the Defendant related to incident in which Plaintiff was alleged injured by an industrial cabinet. Plaintiff has sued for severe and permanent injury to his right leg and to his body as a whole, great fright and shock, great physical pain and suffering, past, present and future, great mental and emotional anguish, past, present and future, medical expenses, both past and future, inability to enjoy the normal pleasures of life, both past and future, loss of earning capacity, both past and future, lost wages, both past and future and other damages to be shown at the trial of this case. Additionally, Plaintiff specifically reserves the right to seek punitive damages. Given the nature and extent of Plaintiff's allegations, the matter in controversy exceeds the jurisdictional limit for removal.

Further, Plaintiff's reservation for potential punitive damages is sufficient to meet the jurisdictional limit of this Court. See, e.g., *Allstate Ins. Co. v. Hilbun*, 692 F. Supp. 698, 700-01 (S.D. Miss. 1988)) ("[F]ederal courts in Mississippi have consistently held that a claim for an unspecified amount of punitive damages under Mississippi law is deemed to exceed the amount necessary for federal jurisdiction."); *Montgomery v. First Family Financial Servs., Inc.*, 239 F. Supp. 2d 600, 605 (S.D. Miss. 2002) ("The court is of the opinion in the case at bar that it is facially apparent from plaintiffs' complaint that the amount in controversy exceeds \$75,000, given the nature of plaintiffs' claims and the fact of plaintiffs' demand for punitive damages....").

7. Pursuant to the requirements of 28 U.S.C. § 1446(b), a Notice of Filing, attaching a copy this Notice of Removal as an exhibit thereto, will be filed with the Circuit Clerk of Madison County, Mississippi.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully submits this Notice of Removal from the Circuit Court of Madison County, Mississippi, to the United States District Court for the Southern District of Mississippi, Northern Division. Defendant further requests any additional relief to which it may be entitled.

RESPECTFULLY SUBMITTED, this the 11th day of August, 2021.

HARBOR FREIGHT TOOLS USA, INC.,
Defendant

/s/ A. Kelly Sessoms, III

BY:

A. KELLY SESSOMS, III

CERTIFICATE OF SERVICE

I, A. Kelly Sessoms, III, do hereby certify that I have on the 11th day of August, 2021, mailed, postage prepaid, a true and correct copy of the foregoing Notice of Removal to:

John H. Stevens (MSB #8528)
1535 Lelia Drive
Post Office Box 16570
Jackson, MS 39236-6570

/s/ A. Kelly Sessoms, III

BY:

A. KELLY SESSOMS, III

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